



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

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CIVIL RIGHTS

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In Reply Refer to:
EPA File No: 6R-00-R2 and 7R-00-R2

The Honorable Nydia M. Velazquez
Congress of the United States
House of Representatives
2241 Rayburn House Office Building
Washington, D.C. 20515-2104

Re: Rejection of Administrative Complaint

Dear Congresswoman Velazquez:

On July 28, 2000, the U.S. Environmental Protection Agency's Office of Civil Rights received two complaints filed on behalf of yourself and several community groups. The complaints allege violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 by the New York City Department of Sanitation. Specifically, the complaints allege that the permitting of certain solid waste transfer stations discriminates against the Hispanic and African American communities of Greenpoint-Williamsburg and Redhook in Brooklyn, New York. EPA's Title VI regulations require complaints to meet certain conditions, as described below. These two complaints must be rejected because they do not satisfy the timeliness requirement in EPA's regulations.

Under Title VI, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). A complaint must meet jurisdictional requirements as described in EPA's Title VI regulations. First, it must be in writing. Second, it must describe alleged discriminatory acts that may violate EPA's Title VI regulations. Title VI does not cover discrimination on the grounds of income or economic status. Third, it must be timely filed. Under EPA's Title VI regulations, a complaint must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Fourth, because EPA's Title VI regulations only apply to recipients of EPA financial assistance, it must identify an EPA recipient that allegedly committed a discriminatory act. 40 C.F.R. § 7.15.

The complaints meet three of the four jurisdictional requirements. First, they are in writing. Second, they allege that the issuance of permits for certain waste transfer stations violates EPA's Title VI regulations. Third, they concern NYCDOS, which was a recipient of EPA assistance at the time of the alleged discriminatory acts.

However, the complaints are not timely. OCR considers a complaint to be "filed" on the date that it arrives at EPA. To determine whether the complaints were filed within 180 days of the alleged discriminatory acts, EPA considered each of the allegations. The Greenpoint-Williamsburg complaint (6R-00-R2) lists sixteen permits, along with the start and end date of each. Even if timeliness was calculated from the start date of each permit, none of the permits would have been issued within 180 days of the filing of the complaint on July 28, 2000.

The Redhook complaint (7R-00-R2) describes a sequence of events associated with the Brooklyn Crushed Materials, Inc. facility. None of the alleged discriminatory actions taken by NYCDOS relative to BCM occurred within 180 days of July 28, 2000. As a result, OCR is required to reject the complaints in accordance with EPA's Title VI regulations.

Concerning your request that EPA assess the State of New York's oversight of New York City's waste management plan, EPA has already taken steps to address that concern. Region II has been reviewing and commenting on City waste management planning documents, holding meetings with City and State officials concerning waste transfer stations, providing outreach and technical support to community organizations, and providing project management of the New York University waste transfer station health effects study. Region II will continue to monitor other issues associated with waste transfer stations including New York City export contracts; Virginia's efforts to regulate waste imports and barge shipments; Elizabeth, New Jersey's concerns; and New York State Department of Environmental Conservation's waste transfer station enforcement sweep.

If you have any questions, please contact me at (202) 564-7272, or Kathy Sykes in the Office of Congressional and Intergovernmental Relations at (202) 564-3651.

Sincerely,


Karen D. Higginbotham
Acting Director

cc: Commissioner Kevin P. Farrell
New York City Department of Sanitation

William J. Muszynski, Acting Regional Administrator
EPA Region 2

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